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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,208	07/18/2003	Timothy J. Brookins	M61.12-0261	2851

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EXAMINER

NGUYEN, THUY-VI THI

ART UNIT	PAPER NUMBER
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3689

MAIL DATE	DELIVERY MODE
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04/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/623,208	BROOKINS, TIMOTHY J.	
	Examiner	Art Unit	
	THUY-VI NGUYEN	3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/10/06, 06/11/07, 10/18/07.</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory since they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. Therefore, "data structure" in the claimed invention is not statutory.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by McGoveran (US Patent No. 7,103,597).

Regarding claim 1, McGoveran discloses a method of generating a computer implemented business process, comprising: passing a logical transaction context to an activity factory to instantiate a business activity with the logical transaction context [*...consistency points can be applied to pseudo-transactions, physical transactions, logical transactions, and business transactions*; see col. 17, lines 35-39 and 55-57 ; and

executing at least one event associated with the business activity within the logical transaction context [*.. logical transaction are executed under multiple or independent resource managers*; see col. 4, lines 1-58] .

Regarding claim 2, McGoveran discloses further comprising passing the logical transaction context to the activity factory to generate an additional business activity having the logical transaction context [*...to define a compensating transaction for a given transaction, and the best compensating transaction often depends on context*; see col. 5, lines 1-26].

Regarding claim 3, McGoveran discloses wherein the first and second business activities for an activity chain [*...Automated business process management is rapidly becoming the principal means of enabling business integration and business-to-business exchanges (e.g., supply chains and trading hubs*; see col. 6, lines 45-56.]

Regarding claim 4, McGoveran discloses wherein the logical transaction context spans multiple physical transactions [*...transactions, and to business*

transactions which span both multiple individual transactions as, for example, in a business process, and multiple business entities as is required in electronic commerce and business-to-business exchanges; see col. 10, lines 3-18].

Regarding claim 5, McGoveran discloses wherein executing the at least one event associated with the business activity occurs on a server [...*Adaptive Transaction Manager on a distributed network of computers with a distributed database management system implementing a business process involving multiple business entities; see col. 30, lines 45-54].*

Regarding claim 6, McGoveran discloses wherein the business activity also takes an activity instance identifier [...*each transaction might be given a unique transaction identifier and each step an identifier unique within that transaction; see col. 29, lines 4-16].*

Regarding claim 7, McGoveran discloses wherein the business activity is instantiated by an entity [...*The beginning and end of a business transaction are thus audit points, by which we mean that an auditor can verify the transaction's identity and execution; see col. 5, lines 47-54].*

Regarding claim 8, McGoveran discloses wherein the business activity is instantiated by a static process [...*static scheduling is to determine which transactions can absolutely be run together without interference; see col. 28, lines 18-30].*

Regarding claim 9, McGoveran discloses wherein the business activity is instantiated by a dynamic process [...*Dynamic scheduling uses various techniques such as locking protocols to determine at execution time which*

transactions and operations may be interleaved or run concurrently; see col. 9, lines 5-11].

Regarding claim 10, McGoveran discloses wherein a data structure for managing multiple physical transactions as a logical transaction, the data structure including:

a first identifier relative to a logical group identification [*.. resource management that enables optimized automation and execution of a transaction or group logic transaction identification; see col. 26, lines 46-67*];

a second identifier relative to a logical transaction identification; and wherein the data structure is passable to an activity factory to generate business activities (see figure 6).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. The US Patent Application Publication to Goodman et al (US 2006/0059253) discloses business process flat form and the patent to Chessell et al. (6374283) discloses a client/server computing system which carries out business transaction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

Art Unit: 3689

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thuy-Vi Nguyen/

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689